

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DANIEL FERULLO d/b/a)	
HIT & RUN SPORTS AND GAMES,)	
Plaintiff)	
)	Civil Action No. 04-12016NMG
vs.)	
)	
UNITED STATES POSTAL SERVICE,)	
Defendant)	

DEFENDANT'S MOTION TO DISMISS

The defendant, United States Postal Service ("United States"), hereby moves to dismiss the plaintiff's Complaint for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) and 12(h)(3).

Respectfully submitted,

UNITED STATES POSTAL SERVICE,

By its attorney,

MICHAEL J. SULLIVAN
United States Attorney

By: Gina Y. Walcott-Torres
Assistant U.S. Attorney
Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3369

CERTIFICATE OF SERVICE

This is to certify that I have this 30th day of April 2005, served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Daniel Ferullo (d/b/a Hit & Run Sports and Games), *pro se*, 523 Lowell Street, Lexington, MA 02420

Gina Y. Walcott-Torres
Assistant United States Attorney

LOCAL RULE 7.1(A)(2) CERTIFICATION OF COMPLIANCE

The undersigned counsel certifies that pursuant to the requirements under Local Rule 7.1(A)(2), she informed the plaintiff, Daniel Ferullo, of the relief requested by this motion in open court at the April 14, 2005, Scheduling Conference in this matter.

Gina Y. Walcott-Torres
Assistant United States Attorney